HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

W.P.NO.14488 OF 1996

Between:
Pabolu Narasimhamurthy and 23 others.

..... Petitioners

AND

Government of A.P. represented by Secretary,
Food & Agriculture (Agri.IV) Department,
Secretariat Buildings, Hyderabad and 3 others.

.....Respondents

::JUDGMENT::

Counsel for the Petitioners : Sri G.Krishna Murthy

Counsel for Respondent No.1 : Government Pleader for Agriculture

Counsel for Respondent Nos. 2 to 4 : Sri K.Madhava Reddy

Dated 07.06.2006

In this petition, the petitioners have prayed for grant of a declaration that the authorities of the Agricultural Market Committees, Peddapuram, Rajahmundry and Kakinada, East Godavari District cannot compel them to take licence under Section 7 of the Andhra Pradesh (Agricultural Produce and Live Stock) Markets Act, 1966 (for short 'the Act'). They have further prayed for restraining the respondents from insisting on taking of licence or demanding the market fee.

In the affidavit filed by Sri Talupula Anjana Kumar (petitioner No.19), it has been averred that the petitioners are engaged in the business of peeled and sun dried chips of root of 'Cassava', which is used for manufacture of cassava flour. He has further averred that the petitioners have duly obtained the licence under the Andhra Pradesh General Sales Tax Act, 1957 and Central Sales Tax Act, 1956. Still further, Sri T.Anjana Kumar has averred that even though the commodity, which is being purchased by them for manufacturing cassava flour does not fall within the definition of 'agricultural produce' within the meaning of Section 2(i) of the Act, the respondent-Market committees are compelling them to take licence under Section 7(1) of the Act. Along with his affidavit, Sri Talupula Anjana Kumar has annexed copy of the show cause notice dated 23.2.1996 issued by the Secretary, Agricultural Market Committee, Peddapuram and a copy of the reply which is said to have been submitted by the proprietor of Sri Venkateswara Flour Mill.

In the counter affidavit filed by Sri S.Appa Rao, Secretary, Agricultural Market Committee, Kakinada, it has been averred that notices requiring the petitioners to obtain licence in terms of Section 7(1) of the Act

were issued because they are purchasing agricultural produce within the market area.

I have heard learned counsel for the parties at considerable length and perused the record. I have also gone through the relevant provisions of the Act and the judgment of this Court in **Srinivasa Sago Manufacturing Company vs. Agricultural Market Committee**[1] on which reliance has been placed by the learned counsel for the petitioners in support of his argument that the respondent-Market committees cannot compel the petitioners to take licence, because they are not engaged in the sale, purchase, manufacture etc., of any agricultural produce.

In my opinion, the writ petition is liable to be dismissed as premature, because no order has so far been passed adversely affecting the rights of the petitioners. It is neither the pleaded case of the petitioners nor their counsel has argued that in furtherance of show cause notices issued by the respondent-Agricultural Market Committees, the competent authorities have passed orders requiring the petitioners to take licence under Section 7(1) of the Act. As a matter of fact, the averments contained in the affidavit file din support of the writ petition show that the petitioners rushed to this Court immediately after filing reply to the notices, which are said to have been issued by the three Agricultural Market Committees requiring them to obtain licence. They did not await adjudication of the notices and invoked the jurisdiction of this Court under Article 226 presuming that the competent authority would necessarily pass adverse orders against them. In my view, the concerned authorities of the respondent- Agricultural Market Committees are duty bound to examine the objections of the petitioners in an objective manner and decide the issue of applicability of the provisions of the Act before finally requiring the petitioners to obtain licence under Section 7(1) of the Act and there was no justification for the petitioners to presume that the concerned authorities would necessarily pass orders adversely affecting their right.

In the premise aforesaid, the prayer of the petitioners is declined.

However, keeping in view the fact that on account of interim order passed by this Court, the competent authorities of the three Agricultural Market Committees were prevented from passing the final order, I deem it appropriate to direct that within two months from today, the concerned authorities of the three Agricultural Market Committees should, after hearing the representatives of the petitioners and considering their objection petitions, pass appropriate orders on the issue of applicability of Section 7(1) of the Act. If the concerned authorities comes to the conclusion that the transactions of the petitioners are covered by the provisions of the Act and they are required to obtain licence under Section 7(1), then the final orders shall be communicated to them. In that event, the petitioners shall be entitled to avail appropriate statutory and legal remedies.

G.S.SINGHVI, CJ

Dt.7.6.2006

msv/grr

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[1] 1997(3) ALT 829